

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ASHINC Corporation, *et al.*,
Debtors.

Chapter 11

American Private Equity Partners II,
LP, *et al.*,

Petitioners,

v.

Catherine E. Youngman, Litigation
Trustee for ASHINC Corporation,
Respondent.

Civil Action No. 22-cv-302-CFC

Bankruptcy Case No. 12-11564

Adv. Proc. No. 21-51179-MFW

**DECLARATION OF JEFFREY H. ZAIGER IN SUPPORT OF TRUSTEE’S
OPPOSITION TO DEFENDANTS’ MOTIONS TO DISMISS**

I, Jeffrey H. Zaiger, declare:

1. I am an attorney at the law firm Zaiger LLC and counsel to Plaintiff Catherine E. Youngman, in her capacity as the Litigation Trustee and Plan Administrator (“Trustee”) for ASHINC Corporation and related Debtors, in the above-captioned adversary proceeding. I submit this declaration in support of the Trustee’s Opposition to Defendants’ Motions to Dismiss.

2. Attached as **Exhibit 1** is a true and correct copy of a letter with appendices that I sent to counsel for Yucaipa American Alliance Fund I, L.P. and

Yucaipa American Alliance (Parallel) Fund I, L.P. (together, “Yucaipa”), dated June 2, 2022, concerning deficiencies in Yucaipa’s discovery responses.

3. Attached as **Exhibit 2** is a true and correct copy of Yucaipa’s Supplemental Response to the Trustee’s First Set of Document Requests, dated July 20, 2022.

4. As of the date of this Declaration, none of the Defendants in the Adversary Proceeding other than Yucaipa has provided any discovery to the Trustee.

5. Attached as **Exhibit 3** is a true and correct copy of the so-ordered Stipulation to Extend Deadline to Respond to Complaint, dated January 4, 2022, filed in *Youngman v. Yucaipa*, Case No. 21STCV37137, in the Superior Court of California, County of Los Angeles.

6. Attached as **Exhibit 4** is a true and correct copy of the so-ordered Fourth Stipulation to Extend Deadline to Respond to Complaint, dated June 24, 2022, filed in *Youngman v. Yucaipa*, Case No. 21STCV37137, in the Superior Court of California, County of Los Angeles.

7. Attached as **Exhibit 5** is a true and correct copy of a webpage titled *Required Employer Contributions*, obtained from the California Public Employees’ Retirement System (“CalPERS”) website at <https://www.calpers.ca.gov/page/employers/actuarial-resources/employer-contributions> (last visited August 1, 2022).

8. Attached as **Exhibit 6** is a true and correct copy of a document titled *Investment & Pension Funding: Facts at a Glance for Fiscal Year 2020-21*, obtained from the CalPERS website at <https://www.calpers.ca.gov/docs/forms-publications/facts-investment-pension-funding.pdf> (last visited August 1, 2022).


9. Attached as **Exhibit 7** is a true and correct copy of the New Mexico State Investment Council's *Investment Holdings Report*, dated May 31, 2022, obtained from the New Mexico State Investment Council's website at <https://api.realfile.rtsclients.com/PublicFiles/7c4d03015a164367930068bfbb95f6a0/0c7cd1b9-8fa1-437d-8fba-ad1e38056f39/05-2022%20Investment%20Holdings%20Report.pdf> (last visited August 1, 2022).

10. Attached as **Exhibit 8** is a true and correct copy of the New Mexico State Investment Council's *60 Years Anniversary Report 2018*, obtained from the New Mexico State Investment Council's website at https://www.sic.state.nm.us/wp-content/uploads/2021/04/NMSIC_60thAnniversaryReport_2018-1.pdf (last visited August 1, 2022).

11. Attached as **Exhibit 9** is a true and correct copy of the CalPERS Board of Administration's *Governance Policy*, last revised in March 2021, obtained from the CalPERS website at <https://www.calpers.ca.gov/docs/board-governance-policy.pdf> (last visited August 1, 2022).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 5, 2022.



Jeffrey H. Zaiger